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ANDAMAN AND NICOBAR ADMINISTRATION
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NOTIFICATION

Port Blair, dated the 03rd September, 2015

No. 239/2015/F. No. 34-34(6)/2015-MPH.— **Whereas**, approval of the A & N Administration was accorded to the Director, Andaman & Nicobar Islands Institute of Medical Sciences (ANIIMS), Port Blair laying down procedure for admission of students in the first year MBBS Course for the Academic year 2015-16 as detailed in the prospectus of the ANIIMS published in the Extraordinary Gazette of Andaman & Nicobar No. 123 dated 9th June, 2015.

Whereas, the reservation and allocation of seats as indicated in para 3.1.4 of the prospectus, for various categories of candidates for admission in the first year MBBS Course has been made in accordance with the order of Ministry of Home Affairs bearing No. U-14040/5/96-ANL dated 30th May, 1996.

Whereas, out of 100 seats in the first year MBBS Course, 15 seats have been allocated for the Central Pool and the remaining 85 seats are allocated for the Inhabitants of Andaman & Nicobar Islands; out of the said 85 seats the Scheduled Tribes of Islands have been allocated with 17 seats.

Whereas, a common entrance test namely, Andaman & Nicobar Islands Pre Medical Test (ANIPMT)-2015, was conducted on 2nd August, 2015 to draw the category-wise merit list of candidates, who are otherwise qualified for admission, in terms of Graduate Medical Education Regulation, 1997 and amendments made thereunder.

Whereas, the Director (ANIIMS) has submitted that in the common entrance test i.e. ANIPMT-2015, 30 ST candidates appeared and out of them only one candidate has got above 40% and the remaining ST candidates have got less than 40% in ANIPMT-2015.

Whereas, the Chairman, Tribal Council, Car Nicobar has submitted a representation dated 7th August, 2015 to Hon'ble Lt. Governor requesting that seats reserved for Scheduled Tribes in ANIIMS may be filled based on the merit obtained by the ST candidates in the common entrance test, namely, ANIPMT-2015, irrespective of the fact as to whether they had obtained the minimum marks of 40% or not in the said test; the Council has cited the case of admission given by Indian Institute of Technology to ST students, wherein the qualifying marks has been down-sized to 30% in order to help the Tribal candidates.

Whereas, the request of the Chairman, Tribal Council, Car Nicobar has been examined by the Administration and the following factual matrix emanates:

(i) Government of India, the Ministry of Health and Family Welfare accorded letter of Permission to the Andaman & Nicobar Administration on 8th June, 2015, to start a Medical College with 100 seats in the first year MBBS Course, by upgrading the District Hospital at Port Blair as a Teaching Institute. The admission to the first year MBBS Course is regulated by MCI as per the "Regulations on Graduate Medical Education, 1997" published in Part-III, Section 4 of the

Gazette of India dated 17th May, 1997 and amendments made therein. The eligibility criteria for admitting students to the Medical Course, selection of students to Medical College and the procedure for selection to MBBS Course have been given in the Regulation.

ii) In a nutshell, candidates for admission must have passed 12th standard in the subjects Physics, Chemistry, Biology and English individually and must have obtained minimum of 50% marks taken together in Physics, Chemistry and Biology at the qualifying examinations. In respect of SC/ST/OBC candidates, the marks obtained in Physics, Chemistry and Biology taken together would be 40% instead of 50% in the qualifying examination.

(iii) In states having only one Medical College and one University/Board/Examining Body taking the qualifying examination, the marks obtained at such qualifying examination may determine the *interse* merit for selection. However, in States, having more than one University /Board/ Examining Body taking the qualifying examination a competitive entrance examination should be held so as to achieve a uniform evaluation.

(iv) In so far as the UT of Andaman & Nicobar Islands is concerned, Government of India, in the Ministry of Home Affairs vide their Order No. U-14040/5/96-ANL dated 30th May, 1996 have laid down criteria for the allotment of professional / technical and non-technical reserved seats in the various Institutions / Colleges in the mainland to various categories of students passing out from schools from the islands. The said order was issued as a result of the judgement passed by the Hon'ble High Court of Calcutta, Circuit Bench at Port Blair in CO No. 11514 of 1995 dated 31.01.1996. This reservation order has brought finality in the matter of admission of students not only against the seats allotted in the various Institutions/Colleges in the mainland but also against the seats available in the Technical Institutions situated in the islands and being run by the Administration, namely, Dr. B.R. Ambedkar Institute of Technology (DBRAIT), Tagore Government College of Education (TGCE), JNRM, Andaman Nicobar College (ANCOL) etc.

(v) Therefore, the Administration in strict compliance with the orders of the MHA and that of the guidelines of the Medical Council of India notified the procedure for admission of students in the 1st year MBBS Course for the academic year 2015-16, vide Notification dated 9th June, 2015 published in the Andaman & Nicobar Gazette No. 123.

(vi) As per the prospectus of the ANIIMS, 900 candidates applied to appear for the competitive entrance examination, namely ANIPMT-2015 and the examination was conducted on 2nd August, 2015 by an external agency, namely JIPMER, Puducherry, at Port Blair in a fair and transparent manner. Totally 858 candidates appeared in the ANIPMT-2015. The provisional mark list of candidates was published on 3rd August, 2015 in the official website/notice board of ANIIMS and A&N Administration as well as in The Daily Telegrams newspaper.

(vii) The preliminary scrutiny of the marks obtained by the candidates reveal that only 101 candidates in total (irrespective of the categories namely General/OBC/ST) have obtained 40% and above marks in the subjects of Physics, Chemistry and Biology in the entrance examination i.e, ANIPMT-2015. Among them only 65 have got more than 50% marks. Further the provisional merit list shows that there will be only one ST candidate who got the minimum mark of 40% in the entrance examination.

(viii) As per the brochure of the Medical College out of 100 seats in the 1st year MBBS Course, 15 seats will be filled by the Central Government based on the result of All India Pre Medical Test and the remaining 85 seats will be filled as per the reservation criteria notified by Government of India in the Ministry of Home Affairs vide Order dated 30th May, 1996 discussed above. Out of 85 seats, 20% of them, namely 17 seats have been reserved for the ST candidates of the Islands. In the event of strictly adhering to the guidelines of MCI, the Administration will be able to fill up only one seat by ST candidate. The remaining 16 seats will have to be diverted to other category candidates who may be from Category-II (children of Central Government Employees), Category-III (Pre-42 and Settlers of the Islands) and Category-IV (Other Locals in the Islands) and other residents.

(ix) It is noted that among the 30 ST candidates, 5 students had obtained more than 70% in Physics, Chemistry and Biology subjects put together in the qualifying examination conducted by CBSE/NIOS ; 11 students got more than 60%; 11 students have got more than 50% and 2 students got above 40%.

(x) Further, it is noted that the Ministry of Health and Family Welfare, Government of India is allotting to the students of A&N Islands medical seats every year out of Central Pool in various Institutions situated in the mainland India. During the year 2014-15, 13 MBBS seats were

allotted to A&N Islands. The Administration in turn allots such seats to different categories of students of these Islands, based on the order of MHA dated 30th May, 1996 and purely based on the marks obtained by the candidates either in the qualifying examination conducted by CBSE or on the basis of *interse* merit of the Island candidates who appeared in the All India Pre Medical Test (AIPMT) conducted by CBSE. However the minimum mark of 50% for General candidates and 40% for SC/ST/OBC students in the entrance test (i.e. AIPMT) was **not** insisted upon in the past.

(xi) If qualifying mark of 40% in the entrance test i.e, ANIPMT-2015 is followed, the seats reserved for ST candidates of the Islands will have to be diverted to other categories of the Islands, which will violate the spirit of the reservation policy notified by MHA vide Order dated 30th May, 1996.

(xii) The President of India has notified six indigenous communities of these Islands as Scheduled Tribe by Constitution Order. Except Nicobari Tribe, the remaining five Tribes are Particularly Vulnerable Tribals who have not yet enjoyed the fruits of civilization. The lone ST, namely Nicobari have been acculturated in the early part of 20th Century, due to affirmative action taken by the Government of India and the Andaman and Nicobar Administration. Though the Tribes constitute 7.5% of the population, 56% of the geographical land has been earmarked as Tribal Reserved Area for the exclusive occupation and possession of the tribes. The Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulations, 1956 was promulgated by President of India to protect and preserve the interest of the Tribes. Being indigenous community of the Islands, they require State intervention by way of affirmative action for their protection, preservation and development. ANIIMS is the first Medical College started by the Administration under the special scheme of the Government of India. It is imperative on the part of the Andaman and Nicobar Administration to protect the interest of the Tribes by ensuring that the seats reserved for them are filled by the ST candidates of these Islands who will ultimately serve their own community in extending the health service.

(xiii) It has been brought to the notice by the Tribal Council that even at the National level, relaxation of marks for ST students has been accorded for admitting ST students in the prestigious IITs (Indian Institutes of Technology) by lowering the minimum qualifying marks.

(xiv) The Hon'ble Guwahati High Court, Agartala Bench in its landmark common judgement dated 21.9.2011 in W(C) No. 354/2011 and WA No. 35/2011 have ruled that the purpose of holding the combined competitive examination ought to have been only to prepare an *inter-se* merit list of the various candidates who had appeared in the qualifying examinations conducted by various Universities/Board/Examining Bodies. No reason could be assigned, as to why there shall be insistence on obtaining 40% marks by a candidate, in Physics, Chemistry and Biology in the combined competitive examination for getting admission into MBBS Course. Accordingly the said Court held that Regulation 5(5) (ii) of the Medical Council of India Regulation, which requires securing of 40% marks in the combined competitive examination as the basis for selection for admission into the MBBS Course is in violation of Article 14 of the Constitution.

(xv) It is noted that the brochure of ANIIMS was published on 9th June, 2015 and the common entrance test i.e. ANIPMT-2015 was held on 2nd August, 2015. Therefore, there was no time available to the ST candidates living in the far-flung Islands to prepare themselves for the test. Further, there was no special coaching facility available in the far-flung Islands where these Scheduled Tribe candidates are living.

(xvi) Being the first year of admission for the newly started Medical College, ANIIMS, an extraordinary situation has arisen, wherein the ST students who are from the indigenous community of these islands are not being given opportunity to get medical education in their own land of habitation though they are qualified in the Board Examination. This will ultimately affect the long term interest and development of the Scheduled Tribes of the Islands.

(xvii) It is further noted that as per the procedure for selection of candidates for admission under 15% All India quota seats in Government Medical/Dental Colleges of India under the control of DGHS, GoI., the ST/SC/OBC candidates are required to get minimum marks at **40th percentile** in National Eligibility-cum-Entrance Test (i.e. AIPMT) and the said percentile is determined on the basis of highest marks secured in the All India Merit list. When sufficient number of candidates in the respective categories failed to secure minimum marks, the Central Government, in consultation with MCI, may at its discretion lower the minimum marks required for admission to MBBS Course for the said academic year.

Whereas, an extraordinary situation that has arisen in the admission of ST students in the ANIIMS has called for, exercise of inherent powers of the Competent Authority to meet the extraordinary situation in conformity with the spirit of the Constitution of India as enunciated in Article 15 as well as in the Andaman & Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1996.

Now, therefore, the Administrator (Lt. Governor), A & N Islands in exercise of powers conferred upon him under Article 239 read with Article 73 of the Constitution of India as well as other enabling provisions of law is pleased to approve in public interest the following procedure for admission of ST students in the MBBS Course in the ANIIMS for the academic year 2015-16 as detailed below.

- i) The seats reserved for ST candidates in Category-I, shall be filled based on the *interse* merit of the ST candidates of the Union Territory of Andaman & Nicobar Islands in the ANIPMT-2015, provided such candidates have obtained minimum of marks at **30th percentile** in ANIPMT. The percentile shall be determined on the basis of highest marks secured in the ANIPMT in the common merit list for admission to MBBS Course.
- ii) The un-utilised seats in Category-I, if any available, will be diverted to Category-V, as already notified in the brochure.
- iii) All the ST candidates selected shall be given special coaching by Director (ANIIMS) so that, they are well equipped with adequate competence to undergo the MBBS Course.
- iv) The brochure of the Andaman & Nicobar Islands Medical Sciences notified vide Extraordinary Gazette No. 123 dated 9th June, 2015, shall be treated as amended with retrospective effect for all purposes.

**By order and in the name of
Administrator (Lt.Governor),**
A & N Islands

Sd./-
(G. Theva Neethi Dhas)
Secretary (Health)